

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

BEKKER et al.,

Plaintiffs,

-v-

No. 16 CV 6123-LTS-BCM

NEUBERGER BERMAN GROUP LLC, et  
al.,

Defendants.

-----X

ORDER

On July 27, 2020, the Court entered an order preliminarily approving the settlement in this matter. (Docket Entry No. 134.) Paragraph 21 of that order directed that, in advance of the final approval hearing, Class Counsel was required to submit “affidavits or declarations in evidentiary form by persons with knowledge of the factual representations proffered in support of approval of the settlement.” (*Id.*) On September 21, 2020, Class Counsel filed a Motion for Attorneys’ Fees, (Docket Entry Nos. 135, 136, 137), and on October 20, 2020, Class Counsel filed a Motion for Final Approval of Class Action Settlement, which included supportive declarations and documents. (Docket Entry No. 139, 140, 143.)

The Court has reviewed these motion papers. Plaintiffs’ memorandum of law appears to rely on factual assertions that are not otherwise supported by evidence in the record. The proffered evidentiary submissions appear to relate mostly to CAFA compliance (Docket Entry No. 143), notice to the class members and the administration of the settlement (Docket Entry No. 139, Exh. 1), the report of the independent fiduciary (*id.*, at Exh. 2), and the motion for attorneys’ fees (Docket Entry No. 137). Evidence has not been provided to support several of

the necessary proposed findings pursuant to Federal Rule of Civil Procedure 23(e)(2) and the Grinnell factors. As a non-exhaustive list of examples, Class Counsel argues, but does not proffer, how the proposed settlement was negotiated at arm's length with the assistance of a mediator; that the relief is adequate in light of the costs, risks, and delay of trial and appeal; that the settlement is reasonable compared to the range of possible outcomes for the class; that Class Counsel and the named plaintiff's representation of the class was adequate; and that the proposed case contribution award for the Class Representative is reasonable in light of the specific work done and risks incurred.

The Court therefore directs Class Counsel to submit further affidavits or declarations in evidentiary form in support of the proposed findings of fact necessary for final approval of the settlement no later than **December 1, 2020**. The Court will reserve decision on the motion for final approval of the settlement until after the hearing and pending the filing of the submissions described above.

SO ORDERED.

Dated: New York, New York  
November 18, 2020

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
United States District Judge